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ENROLLED BILL ANALYSIS

BILL NUMBER: Senate Bill 1064 (S-3)

TOPIC: Collocation of Facilities on Wireless Towers

SPONSOR: Sen. Mike Kowall

CO-SPONSORS: N/A

COMMITTEE: Senate Economic Development; House Energy & Technology

DATE ANALYSIS COMPLETED: May 11, 2012

ADMINISTRATION POSITION : Administration is neutral on the legislation.

PROBLEM/BACKGROUND

As wireless providers attempt to invest in and upgrade facilities in Michigan to improve mobile speeds and coverage, they are faced with variations in regulatory environments among local units of government. In some cases, providers are required to reapply or pay fees to collocate facilities on towers or in wireless equipment compounds that have already been approved through local zoning processes.

DESCRIPTION OF BILL

Senate Bill 1064 would prohibit local units of government from requiring wireless providers wishing to co-locate facilities on existing wireless towers from obtaining special use permits or paying additional fees under certain circumstances.

Specifically, the bill amends the Michigan Zoning Enabling Act to provide that wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under the Act if the following requirements are met:

- The equipment will be collocated on an existing support structure or equipment compound
- The existing support structure/equipment compound is in compliance with the local zoning laws or has received appropriate approval from local officials
- The proposed collocation does not increase the overall height by more than 20 feet or 10% of its original height (whichever is greater)
- The proposed collocation does not increase the width of the support structure by more than the minimum necessary to permit collocation
- The proposed collocation does not increase the area of the existing equipment compound to greater than 2,500 square feet
- The proposed collocation complies with the terms and conditions of any previous final approval of the support structure/equipment compound by the appropriate zoning body or official

Equipment that exceeds the dimension standards set out above or that does not comply with the terms and conditions of a previous final approval would have to receive special land use approval under terms set out in the bill. An application fee for a special land use permit could not exceed \$1,000, and in most cases a decision on a special land use permit would have to take place within 60 days after a determination that

an application is administratively complete. Special land use approval may be made expressly conditional only on the wireless communications equipment's meeting the requirements of other local ordinances and of federal and state laws before the wireless communications equipment begins operations.

The bill also specifies that for local governments that require a special land use permit for new wireless communications equipment or towers, the process and fees laid out in the bill would apply, except that a decision on the permit would have to be made within 90 days after a determination that an application is administratively complete. In any case, local governments would be able to authorize wireless communications equipment as a permitted use of property not subject to a special land use approval.

SUMMARY OF ARGUMENTS

Pro

The provisions of this bill will create a more consistent regulatory environment across the state by specifying circumstances under which collocation of wireless facilities may take place without additional local approval, when a special use permit is required, capping fees for a special use permit, and putting deadlines in place for approval of these permits. This should make it easier for wireless providers to invest in upgrades to their systems, and result in better coverage and faster speeds for mobile voice and data services.

Con

Local governments expressed concerns that the provisions of SB 1064 would pre-empt local control and home rule by eliminating their ability to address wireless facility collocation requests on a case-by-case basis through the zoning process. They also argued that the \$250 fee proposed in the bill as introduced would not cover their costs for processing an application for a special use permit (this concern was alleviated by increasing the allowed fee to \$1,000 in the enrolled bill presented to the Governor).

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) **Department:** There are no budgetary implications for LARA.

(b) **State:** There are no budgetary implications for the State.

(c) **Local Government:** Local governments will be impacted to the extent that applications for special use permits are filed and fees (up to \$1,000) to cover costs for processing the applications are assessed. Local governments that charge more for such requests today or that assess a fee for collocation of facilities that they will no longer be permitted to under this bill would not be able to obtain this revenue in the future.

OTHER STATE DEPARTMENTS

n/a

ANY OTHER PERTINENT INFORMATION

n/a

ADMINISTRATIVE RULES IMPACT

Senate Bill 1064 will have no impact on administrative rules.